

**FINAL STATEMENT OF REASONS
FOR
PROPOSED AMENDMENTS
OF THE
DIVISION OF THE STATE ARCHITECT – ACCESS COMPLIANCE
REGARDING THE
ADOPTION, AMENDMENT OR REPEAL OF
CALIFORNIA PLUMBING CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 5**

The Administrative Procedure Act (APA) requires that every agency shall maintain a file of each rulemaking that shall be deemed to be the record for that rulemaking proceeding. The rulemaking file shall include a final statement of reasons. The final Statement of Reasons shall be available to the public upon request when rulemaking action is being undertaken. The following are the reasons for proposing this particular rulemaking action:

UPDATES TO THE INITIAL STATEMENT OF REASONS

None

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Division of the State Architect – Access Compliance (DSA/AC) has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

OBJECTIONS OR RECOMMENDATIONS MADE REGARDING THE PROPOSED REGULATION(S)

David Thorman, State Architect -- DSA

ITEM 21-2 Comment: CALIFORNIA PLUMBING CODE – Chapter 2 Definitions, Approved as Amended

CHANGE WITHOUT REGULATORY EFFECT

207.0 Enforcing Agency, definition of (Related Change Only).

DSA/AC proposes to adopt the definition of 'Enforcing Agency' for consistency. This is also a related change to Item 21-4, Footnote No. 2 under Table 4-1. Enforcing agency is the agency established and authorized by law to administer and enforce the provisions of the plumbing code as adopted or amended. DSA/AC requested this language be included in the Express Terms and Initial Statement of Reasons of the 45-day Monograph but BSC was unsuccessful in printing this amendment.

DSA/AC CHANGE TO ACCOMMODATE: Currently DSA/AC does not adopt a definition for 'enforcing agency'. It was suggested by the California Building Standards Commission, Code Advisory Committee for Plumbing, Electrical, Mechanical and Energy, DSA/AC adopt the same definition in the plumbing code as adopted by the Department of Housing and Community Development in section 207.0. DSA/AC concurs with the committee's recommendation. The proposed definition for 'Enforcing Agency' was included in the 45-day Monograph. DSA/AC requested the reference to this 'Related Change' be included in the Express Terms and the initial Statement of Reasons of the 45-day Monograph in 207.0 and Table 4-1; however the BSC was unsuccessful in printing this amendment. DSA has included these cross-references to the related changes in the final Express Terms and is shown in double underline. DSA/AC feels these amendments meets Health & Safety Code Section (H&SC§) 18930 (a) criterion # 1, 4, 6 & 8. DSA/AC has also made a correction to the Authority and Reference Citations in the Express Terms. The 'Reference' citations for Gov. Code § 4450 through 4460 are incorrect. Each of the 'Reference' Citations are corrected to read "Gov. Code § 4450 through 4461.

David Thorman, State Architect -- DSA

ITEM 21-4 Tables 4-1 through 4-4 (Statement of Reasons Only & Related Change) – Approved as Amended

DSA requested this language be included in the Initial Statement of Reasons of the 45-day Monograph but BSC was unsuccessful in printing this amendment. See double underline below which DSA feels meets criteria # 1, 4, 6 & 8.

There is no cross-reference in Table 4-1 directing the user of the code to existing plumbing provisions for accessibility published in the California Building Code (CBC), Chapter B; in public buildings, public accommodations, commercial buildings and publicly funded housing. DSA/AC is proposing to adopt a new Note #1 in Table 4-1 directing the user of the code to the CCR, Chapter 11B.

There is no cross-reference in Tables 4-1 through 4-4 directing the user of the code to existing administrative plumbing provisions published in Chapter 1 of the California Plumbing Code regarding DSA/AC statutory responsibilities for plumbing accessibility which is limited to publicly funded buildings, structures, sidewalks, curbs

and related facilities; and all privately funded public accommodations and commercial facilities. DSA/AC is proposing to adopt a new Note #2 in Tables 4-1 through 4-4 to assist the user of the code to better focus on DSA/AC specific plumbing code application and enforcement administrative responsibility in section 101.11.9.

In Table 4-1 under 'Type of Building or Occupancy (Board of Corrections – Local Detention Facilities - Locked Sleeping Rooms ¹¹)' the reference to Footnote #11 is incorrect. DSA/AC is correcting the footnote to read #15.

In Table 4-1 (Footnote #2) cross-reference to Administrative Authority is not applicable to DSA/AC. DSA/AC proposes to clarify jurisdictional authority by adding a California amendment '*[For DSA/AC] enforcing agency*'. This adoption is a related change to Item 21-1, section 207.0 (definition of Enforcing Agency). It was suggested by the California Building Standards Commission, Code Advisory Committee for Plumbing, Electrical, Mechanical and Energy, DSA/AC adopt the same definition in the plumbing code as adopted by the Department of Housing and Community Development in section 207.0. DSA/AC concurs with the committee's recommendation. DSA/AC proposes to amend Footnote #2 to be consistent with the definition in 207.0 for Enforcing Agency.

In Table 4-1 (Footnote #14) there is an unrelated number fifteen (15) shown at the end of the sentence. DSA/AC is proposing to delete the number fifteen (15).

Related Change: see Item 21-2
207.0

Enforcing Agency [For DSA/AC] The designated department or agency as specified in statutes and regulations to enforce the specific building standards promulgated or adopted by the specified state agency.

In Table 4-4 under 'Bathtubs or Showers Fixtures per Person (Organized Camps)' the ratio of 1 fixture for each 1-156 is incorrect. The number 6 should be a footnote #6. DSA/AC is proposing to correct the ratio to read: "1 1-15⁶".

DSA/AC CHANGE TO ACCOMMODATE: Notes under Table 4-1 were included in the 45-day Monograph. Note under Tables 4-2 through 4-4 were included in the 45-day Monograph. DSA/AC requested the reference to a 'Related Change' be included in the Express Terms and Initial Statement of Reasons of the 45-day Monograph in under Table 4-1; however the BSC was unsuccessful in printing this amendment. It was suggested by the California Building Standards Commission (BSC), Code Advisory Committee (CAC) for Plumbing, Electrical, Mechanical and Energy, DSA/AC adopt the same definition in the plumbing code as adopted by the Department of Housing and Community Development in section 207.0. DSA/AC concurs with the committee's recommendation. The proposed definition for 'Enforcing Agency' was included in the 45-day Monograph. DSA has included this related change in the final Express Terms and is shown in double underline. DSA/AC feels these amendments meets Health & Safety Code Section (H&SC§) 18930 (a) criterion # 1, 4, 6 & 8.

Bob Raymer – BIA

ITEM 21-4 Comment: CALIFORNIA PLUMBING CODE -- (Mr. Raymer's comment was made verbally at public hearing - no corresponding letter) -- Table 4-1 -- Approved as Amended

Table 4-1 Minimum Plumbing Facilities with Appendix Chapter of the Building Code – Table needs to be addressed. Fix the required number of plumbing fixtures that are listed in Table 4-1.

DSA/AC CHANGE TO ACCOMMODATE: No new change is proposed to address Mr. Raymer's request for Approved as Amended. Pursuant to Government Code Section (GC§) 11346.8(c) which mandates "No state agency may adopt, amend, or repeal a regulation which has been changed from that which was originally made available to the public pursuant to GC§ 11346.5, unless the change is (1) non-substantial or solely grammatical in nature, or (2) sufficient related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action. ...".

Additionally, Government Code Section 11346.45 mandates DSA/AC to involve parties who would be subject to the proposed regulations in public discussions prior to publication of the notice.

DSA/AC is concerned Mr. Raymer's request for 'Approved as Amended' is outside the public participation procedures for adoption of regulations regarding: hearing; actions affecting regulations; public notification; conditions and notice of proposed adoption, amendment or repeal content; and availability to public.

In an effort to accommodate Mr. Raymer's new proposed change, DSA/AC will take this comment under consideration in a future rulemaking.

Sheila Lee, Committee Chair – CALBO State Code Committee

ITEM 20-21 Comment: Chapter 4 – Plumbing Fixtures and Fixture Fittings -- Approved as Amended

The re-adoption of Section 413.0 in its entirety would subject designers and developers to excessive costs due to the required number of plumbing fixtures that are listed in Table 4-1. The occupant load used in this Table is based on the minimum exiting requirements, which leads to Chapter 10A of the CBC. For fire life safety purpose, the exiting requirements (Table 10A) are based on the concept that the facility is fully occupied at any one time leading to the maximum number of occupants based on the applicable occupant load factor. We believe that utilizing exiting requirements as a base for determining the number of plumbing fixtures is flawed and yields an unreasonable excessive number of plumbing fixtures. In addition, Table 4-1 fails to address many uses such as mercantile, Laundromats, sports facilities, storage buildings, etc. Also, unlike Table 4-1, the number of plumbing fixtures in the Building Code is based on the specific occupancy group classifications rather than the description of the uses and therefore, it makes it easier to apply and enforce. The plumbing fixture count provisions contained in both the building and plumbing codes have been tried, and have created much difficulties and confusion for both the design communities and the enforcement problem for local jurisdictions. Criteria #1 – proposed standard conflict with Building Code.

DSA/AC CHANGE TO ACCOMMODATE: No new change is proposed to address Ms. Lee's request for Approved as Amended. Pursuant to Government Code Section (GC§) 11346.8(c) which mandates "No state agency may adopt, amend, or repeal a regulation which has been changed from that which was originally made available to the public pursuant to GC§ 11346.5, unless the change is (1) non-substantial or solely grammatical in nature, or (2) sufficient related to the original text that the public was adequately placed on notice that the change could result from the originally proposed regulatory action. ...".

Additionally, Government Code Section 11346.45 mandates DSA/AC to involve parties who would be subject to the proposed regulations in public discussions prior to publication of the notice.

DSA/AC is concerned Ms. Lee's request for 'Approved as Amended' is outside the public participation procedures for adoption of regulations regarding: hearing; actions affecting regulations; public notification; conditions and notice of proposed adoption, amendment or repeal content; and availability to public.

In an effort to accommodate Ms. Lee's new proposed change, DSA/AC will take this comment under consideration in a future rulemaking.

Lloyd Dinkelspie -- Individual**ITEM 20-25 Comment: Chapter 6 - Water Supply and Distribution, Sections 601.0 – 614.0 – Disapproved**

Inclusion of UPC Sec 611.4 represents a potential problem when installing water softeners and presents problems and conflicts with code required water pipe sizing.

Conflicts arise between the standards listed in Table 14-1 (NSF 44), Section 608.1 and Section 610.2.

The listed standard, NSF 44, provides a rated service flow value as a condition of the listing. This flow is required to be included in the performance label attached to the installed appliance

The NSF 44 "rated service flow" represents the flow, in gallons per input, where a condition of hard water bypass will not occur and the pressure drop across the unit will not exceed 15 psi.

Allowing the sizing of waste softeners with piping of ¾" or 1" inlets/outlets will permit service flow rates of 8 gallons or 9 gallons per minute for 4 bathroom houses.

A typical 3 bath house with a laundry will have approximately 30 fixture units.

Utilizing chart A-3 from appendix A shows a required design flow of slightly less than 20 gpm (19.6 gpm). A 20 gpm flow rate corresponds to the maximum continual flow rate through a 5/8" water meter.

Utilizing Appendix L Table L-1, 3 baths, a laundry and kitchen would have 16 SSFU which would represent either a flow requirement of 16 gpm if fixture concurrency is included in L-1 or approximately 12 gpm is Chart A-3 is allowed to be utilized.

It is my opinion that L-1 is a stand alone calculation and the figures calculated therein should not be further reduced by the use of Table A-3.

If the curb pressure is 30 psi and flow rate exceeds the rated service flow then there is no guarantee that the residual pressure will remain above the code required 15 psi.

By adopting UPD Section 611.4 we risk the possibility of providing an inadequate flow or substandard residual pressure at or to plumbing fixtures in our dwelling units.

DSA/AC CHANGE TO ACCOMMODATE: Per GC§ 11346.9 (a) (3) the DSA/AC has determined this comment to be irrelevant. This comment is not specifically directed at DSA/AC's proposed action or to the procedures followed by the DSA/AC in proposing or adopting the action.

DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS

The DSA/AC has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective as and less burdensome to affected private persons than the adopted regulation.

REJECTED PROPOSED ALTERNATIVE THAT WOULD LESSEN THE ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

The DSA has made an initial determination that the proposed regulatory actions are changes which do not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of Title 24 and would not have an adverse economic impact on small businesses. The application of these regulations are intended to assure that barrier-free design is incorporated in all buildings, facilities, site work and other improvements to which the California Plumbing Code applies in compliance with state law to assure that these improvements are accessible to and usable by persons with disabilities.

COMMENTS MADE BY THE OFFICE OF SMALL BUSINESS ADVOCATE

DSA/AC has not received any comments on these proposed regulations from the Office of Small Business Advocate.

COMMENTS MADE BY THE TECHNOLOGY, TRADE, AND COMMERCE AGENCY

DSA/AC has not received any comments on these proposed regulations from the Trade and Commerce Agency.

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